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SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2011 JAN -6 PM 4:06 ✓

JEANNE HICKS, CLERK

BOBBE JO BALL

BY: _____

IN THE SUPERIOR COURT

STATE OF ARIZONA, COUNTY OF YAVAPAI

STATE OF ARIZONA,

Plaintiff,

vs.

JAMES ARTHUR RAY,

Defendant.

V1300CR201080049

STATE'S RESPONSE TO DEFENDANT'S
MOTION TO SUPPRESS YOUTUBE VIDEOS

(The Honorable Warren Darrow)

The State of Arizona, through undersigned counsel, hereby submits this Response to Defendant's Motion to Suppress YouTube Videos.¹ Defendant is not correct when he states that the referenced videos were all produced after October 8, 2009. Of the 53 videos disclosed to Defendant, only 21 were produced after the Sedona Sweat Lodge event. The others were produced as early as January 2007 and document Defendant at many of the James Ray International Events. For the reasons set forth below, the videos may be relevant and admissible at trial.

MEMORANDUM OF POINTS AND AUTHORITIES

I. The post-2009 Sweat Lodge Ceremony videos - The State does not intend to use these videos for the purposes set forth in Defendant's motion.

Defendant bases his argument of irrelevance and preclusion on the incorrect assertion that all the videos were produced after the 2009 Sweat Lodge Ceremony, arguing that the only reason the

¹ Although captioned as a motion to suppress, the motion is actually a motion to preclude evidence. While seeking the same result, a motion to suppress typically alleges the State violated a defendant's constitutional rights. Defendant does not allege any such violation occurred when the State copied YouTube Videos that Defendant had published on the internet.

1 State would use the videos at trial is to show Defendant "remains engaged in self-help tutorials
2 despite the allegation of wrongdoing alleged in the Indictment." Defendant further mistakenly asserts
3 the State seeks to argue Defendant "is still a danger" or "has not learned his lesson" or "something
4 similar" and that such purposes would only serve to "inflame the passions of the jury." The State has
5 *never* intended nor asserted an intent to use the videos for any of the reasons set forth in Defendant's
6 motion.

7 The State does not intend to use any of the post-2009 sweat lodge ceremony videos during its
8 case-in-chief. In the event Defendant testifies and his testimony is contradicted by his statements
9 contained in the videos, the State may use the videos in rebuttal.

10 **II. The pre-2009 videos are relevant and admissible.**

11 Defendant has continually argued that all of the participants in the 2009 sweat lodge were
12 free to leave at any time. The YouTube videos produced by Defendant or his team prior to his 2009
13 sweat lodge event are relevant to demonstrate the techniques used by Defendant and the impact of
14 these on the mindset of the participants in the 2009 sweat lodge ceremony.

15 During trial the State will explain to the jury why some participants remained in the sweat
16 lodge in spite of significant physical distress. In order to fully understand the mindset of the
17 participants at the Spiritual Warrior Seminar, the State has retained an expert in group behavior, Rick
18 Ross. Mr. Ross will talk about the Large Group Awareness Training process, techniques used by
19 Defendant and the effect these techniques have on the behaviors of group participants. The YouTube
20 videos contain footage of Defendant at other events and will illustrate for the jury the techniques
21 explained by Mr. Ross. All of the victims in this case had attended prior James Ray International
22 Events. Accordingly, the YouTube videos are relevant to demonstrate the techniques used by
23 Defendant and the result these techniques had on the mindset of the participants.

24 Currently pending is the State's Motion to Compel the release of the audio recordings of the
25 2009 Spiritual Warrior Retreat. This recording may be the best evidence of these techniques used by
26

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1 Defendant because it is specific to the 2009 Spiritual Warrior Retreat. However, all the YouTube
2 videos are relevant to demonstrate Defendant's techniques and participants' mindset.

3 RESPECTFULLY submitted this 6th day of January, 2011.

6 By Sheila Sullivan Polk

7 SHEILA SULLIVAN POLK
8 YAVAPAI COUNTY ATTORNEY

9 **COPIES** of the foregoing emailed this
10 6th day of January, 2011:

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COPIES of the foregoing delivered this
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